

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

CASE NO. CR12-0185JLR

Plaintiff,

ORDER DENYING MOTION
FOR JUDICIAL
RECOMMENDATION

JOSEPH ANTHONY McDANIELS,

Defendant.

Before the court is Defendant Joseph Anthony McDaniels's "Pro Se Petitioner's

Motion for Judicial Recommendation.” (Mot. (Dkt. # 143).) Specifically, Mr.

McDaniels's motion states:

The petitioner seeks an order requiring the Bureau of Prisons (BOP) personnel to conduct an individualized consideration whether and for how long Defendant/Petitioner should be placed in an RRC, and the court's consideration of home-confinement for a portion of home confinement which would equal the 18 months left of Petitioner's sentence.

(*Id.* at 1.) For the reasons stated below, the motion is DENIED.

11

1 The court has no legal authority to grant Mr. McDaniels’s motion for an order
2 directing the Bureau of Prisons (“BOP”) to take a specific act. The requested order
3 would amend the judgment in this matter. (*See Judgment* (Dkt. # 115).) Federal Rules of
4 Criminal Procedure 35 and 36 govern the limited circumstances under which a court can
5 amend a judgment, and they are not satisfied here. *See Fed. R. Crim. P. 35* (outlining
6 circumstances under which a court may correct or reduce a sentence); *Fed. R. Crim. P. 36*
7 (providing that a court may correct a clerical error in a judgment). Nor does the Second
8 Chance Act, 18 U.S.C. § 3624, which Mr. McDaniels cites in his motion, provide a basis
9 for the relief he requests. The Second Chance Act vests discretion in the Director of the
10 BOP to determine how much time, not to exceed 12 months, an inmate may spend in
11 pre-release custody. *See 18 U.S.C. § 3624(c)*. “[A] district court may not encroach upon
12 the BOP’s authority to decide where the prisoner may be confined during the pre-release
13 period.” *United States v. Holcomb*, No. CR 01-00218 KG, 2018 WL 1896542, at *2 (D.
14 N.M. Apr. 18, 2018) (citing *United States v. Laughlin*, 933 F.2d 786, 789 (9th Cir.
15 1991)).

16 For the foregoing reasons, the court DENIES Mr. McDaniels's motion for a
17 judicial recommendation (Dkt. # 143).

18 Dated this 9th day of January, 2019.


JAMES L. ROBART
United States District Judge